

Tentative Rulings for April 24, 2025
Department 502

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) *The above rule also applies to cases listed in this "must appear" section.*

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

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(03)

Tentative Ruling

Re: **Brandy Ferris v. Lee Investment Company**
Superior Court Case No. 23CECG03425

Hearing Date: April 24, 2025 (Dept. 502)

Motion: Defendant GSF Properties, Inc.'s Motions to Compel Plaintiffs' Further Responses to Form Interrogatories, Special Interrogatories, and Requests for Production of Documents, Set One, and for Monetary Sanctions against Plaintiffs and Their Counsel

Tentative Ruling:

To deny the defendant's motions to compel further responses to form interrogatories, special interrogatories, and requests for production of documents, as moot. The court has already granted an order compelling plaintiffs to respond to the discovery requests without objections. That order remains in full force and effect and the court expects plaintiffs to comply with it. Therefore, it is not necessary to grant another order compelling plaintiffs to respond.

However, the court does intend to grant monetary sanctions against plaintiffs and their counsel, Jacob Partiyeli, for their willful refusal to provide full and complete responses to discovery, even after being ordered to do so. Total sanctions shall be \$6,492, divided between the individual plaintiffs as described below. Plaintiffs shall pay sanctions to defendant within 30 days of the date of service of this order.

Explanation:

The court intends to deny defendants' motions to compel further responses to the form interrogatories, special interrogatories, and requests for production, as the court has already previously ordered plaintiffs to provide supplemental responses without objections to the disputed discovery requests. The court's order of December 13, 2024 stated that, since plaintiffs had failed to meet and confer about the dispute and had failed to respond to defendants' request for a pretrial discovery conference, the court was ordering plaintiffs to provide supplemental responses without objections, other than attorney-client privilege and attorney work product, within 45 days of the court's order. (See Court's Minute Order of December 13, 2024.) "If Plaintiffs fail to comply with this order, requesting party may file a motion to compel and sanctions will be awarded to the moving party." (*Ibid.*)

Thus, the court has already ordered plaintiffs to provide supplemental responses, and a new order compelling plaintiffs to provide supplemental responses would be unnecessary and redundant. However, the court notes that the prior order remains in effect, and plaintiffs are still required to provide further responses without objections, other than attorney-client and work product objections. The court also orders plaintiffs

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Tentative Ruling

Re: **Ronald Carter v. Paul Vial**
Superior Court Case No. 22CECG02025

Hearing Date: April 24, 2025 (Dept. 502)

Motion: By Defendants Paul Vial, James Anderson, James Larson, Bob Gilbertson, Gary Smith, and Robert Acker for Summary Adjudication

Tentative Ruling:

The court intends to take judicial notice of its own order, entered April 16, 2025. (Evid. Code § 455, subd. (b).)

The court intends to grant the motion for summary adjudication of the first, second, and third causes of action in favor of defendants Paul Vial, James Anderson, James Larson, Bob Gilbertson, Gary Smith, and Robert Acker, and against plaintiffs Richard Gaestel and Cindee Gaestel Lopez, as Successor Co-Trustees of the Robert J. and Bette C. Gaestel Family Revocable Trust.

The court intends to direct defendants Paul Vial, James Anderson, James Larson, Bob Gilbertson, Gary Smith, and Robert Acker to submit a proposed order consistent with this ruling within five days of service of the minute order by the clerk.

Explanation:

On June 30, 2022, plaintiff Ronald Carter ("Carter") filed a complaint regarding a partnership dispute.¹ On July 12, 2022, Carter filed a First Amended Complaint ("FAC") naming additional plaintiffs, Richard Gaestel and Cindee Gaestel Lopez, as Successor Co-Trustees of the Robert J. and Bette C. Gaestel Family Revocable Trust ("Plaintiffs"). Plaintiffs state three causes of action as to the moving defendants Paul Vial, James Anderson, James Larson, Bob Gilbertson, Gary Smith, and Robert Acker (together "Defendants"): (1) breach of fiduciary duty; (2) breach of partnership agreement; and (3) accounting. Defendants now seek summary adjudication of Plaintiffs' claims against them.

Summary adjudication works the same as summary judgment, except it acts on specific causes of action, rather than on the entire complaint. (*Oroville Hospital v. Superior Court* (2022) 74 Cal.App.5th 382, 398.) A plaintiff moving for summary judgment or adjudication of a cause of action must "prove[] each element of the cause of action entitling the party to judgment on that cause of action." (*Paramount Petroleum Corp. v.*

¹ Defendants' Request for Judicial Notice as to Exhibits 18 and 19 are granted. The Request for Judicial Notice as to Exhibits 13, 14, and 17 are granted only to the extent that such documents exist. The court does not take judicial notice of the truth of the contents. (*Steed v. Dept. of Consumer Affairs* (2012) 204 Cal.App.4th 112, 120-121.)

Superior Court (2014) 227 Cal.App.4th 226, 241; Code Civ. Proc., § 437c, subd. (p)(1).) Issue finding, and not issue determination, is the pivot upon which the summary adjudication turns. (*Walsh v. Walsh* (1941) 18 Cal.2d 439, 441.) Summary adjudication must only be granted if it completely disposes of one or more causes of action. (Code Civ. Proc. § 437c, subd. (f)(1).) Summary adjudication is not to be used for piecemeal adjudication of facts. (*Catalano v. Superior Court* (2000) 82 Cal.App.4th 91, 97.)

The moving party bears the initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he or she carries this burden, the burden shifts to plaintiff to make a prima facie showing of the existence of a triable issue. (*Aguiar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 849.) A defendant has met his burden of showing that a cause of action has no merit if he has shown that one or more elements of the cause of action cannot be established, or that there is a complete defense to that cause of action. (*Ibid.*) Once the defendant has met that burden, the burden shifts to the plaintiff to show a triable issue of one or more material facts exists as to the cause of action or a defense thereto. (*Ibid.*)

The FAC alleges that Plaintiffs are a partner to the Partnership Agreement, which is a predicate to the three causes of action stated thereon. (FAC, ¶ 10.) Defendants submit that there are no triable issues of material fact in general as to them on each of the three causes of action because Plaintiffs lack standing. Specifically, Defendants submit that Plaintiffs were not partners to the Partnership Agreement. (Defendants' Statement of Undisputed Material Fact ["UMF"] No. 1-20.)

Plaintiffs oppose. Plaintiffs dispute the fact submitted that the partnership partners were listed in a third amendment to the Partnership Agreement. Plaintiffs object that the document is incomplete. Plaintiffs submit the exact same document in opposition without further augmentation. (Gaestel Decl., ¶ 7, Ex. 2.) The objection is overruled. As to all other submitted facts, Plaintiffs generally do not dispute.

Plaintiffs submit additional material facts. However, the court takes judicial notice of its prior order, entered April 16, 2025. (Evid. Code §§ 452, subd. (d), 455, subd. (b).) In addition to the above findings, issue sanctions were imposed against Plaintiffs. By sanction, it is established that the trust never acquired a partnership interest in the Greenhouse Ranch Partnership.

For the above, several reasons, Defendants have met their burden to demonstrate no triable issues of material fact as to the first, second, and third causes of action by Plaintiffs. Accordingly, summary adjudication of the first cause of action for breach of fiduciary duty; second cause of action for breach of partnership agreement; and third cause of action for an accounting, are granted in favor of defendants Paul Vial, James Anderson, James Larson, Bob Gilbertson, Gary Smith, and Robert Acker, and against plaintiffs Richard Gaestel and Cindee Gaestel Lopez, as Successor Co-Trustees of the Robert J. and Bette C. Gaestel Family Revocable Trust.²

² All other objections were not material to the disposition. (Code Civ. Proc. § 437c, subd. (q).)

